

House Science, Space, and Technology Committee

Chairman Frank Lucas

Commercial Space Act of 2023

Section-by-Section

Section 1. Short Title; Table of Contents

This section establishes the short title of the bill as the “Commercial Space Act of 2023.” It also lists the table of contents.

Section 2. Findings; Policy; Purposes; Definitions

This section sets forth the findings of Congress, relevant U.S. policy, the purposes of the bill, and the definitions of terms used throughout the legislative text.

Section 3. Certification to Operate Space Objects

Sec. 80101. Definitions.

Defines terms used throughout this subtitle.

Sec. 80102. Certification Authority

Directs the Secretary of Commerce (referred to as the “Secretary” throughout), within one year of enactment, to begin issuing certifications for operations of space objects. Authorizes the Secretary to consult with the heads of other federal agencies in the execution of this chapter, as determined necessary by the Secretary. Within one year of enactment, requires U.S. entities to hold either a certification or other valid covered license to operate a space object. Prohibits the Secretary from issuing certifications to foreign entities. Directs the Secretary to require only one certification for multiple operations and multiple space objects, as practicable.

Sec. 80103. Certification Application and Requirements

Requires a U.S. entity seeking a certification to submit an application to the Secretary. Requires that the application contains the listed information regarding proposed operations. Requires the applicant to attest that the space object is not a weapon and that the application is true, complete, and accurate.

Requires that the Secretary review and make a determination on an application within 60 days of receipt. Upon a finding that the Secretary will likely condition operations or deny the application, directs the Secretary to notify the applicant, explain the rationale and provide the applicant an opportunity to cure. Requires the Secretary to issue certifications for any applications that the Secretary has not either approved or denied at the end of the 60-day deadline.

Authorizes the Secretary to either issue a certification with conditions or deny the application if there is clear and convincing evidence that the proposed operation of a space object would violate an international obligation of the United States pertaining to a nongovernmental entity of

the United States under the Outer Space Treaty (OST). Provides guidance on OST interpretation for purposes of conditioning or denying an application. Establishes a presumption that, absent clear and convincing evidence, the certification process is sufficient for meeting U.S. obligations under the OST and OST obligations can be met through reasonably available commercial means. Prohibits the Secretary from placing conditions on the certification retroactively. Also prohibits the Secretary from delegating the power to make OST determinations resulting in denial or a conditioned certification. Authorizes the Secretary to remove conditions placed on a certification.

Sec. 80104. Mitigation of Space Debris

Requires an applicant to submit a space debris mitigation plan and directs a certification holder to notify the Secretary both before starting and after completing the disposal phase of such plan.

Sec. 80105. Liability

Requires a certification holder to enter into an agreement with the U.S. to pay the costs incurred by the U.S. that arise from a valid claim for compensation made by another State Party under the OST or Liability Convention when such claim is for damage caused by a space object of the certification holder.

Sec. 80106. Continuing Certification Requirements

Directs certification holders to notify the Secretary if a certified space object has terminated operations or is involved in a catastrophic event. Requires certification holders to inform the Secretary of any material changes to planned operations or space objects used in certified operations. Authorizes the Secretary to determine if a material change requires additional review and, if so, to complete such review.

Sec. 80107. Certification Transfer

Authorizes the Secretary to transfer a certification from the certification holder to another U.S. entity. Directs the certification holder to submit to the Secretary listed information regarding the proposed transferee and attestations made by the proposed transferee. Directs the Secretary to complete review of a request for transfer within 60 days.

Sec. 80108. Certification Expiration and Termination

Defines the three events that result in the expiration of a certification. Authorizes the Secretary to terminate a certification if an applicant or certification holder is convicted of falsifying information under section 1001 of title 18 related to the certification process. Declares entities convicted of such violation ineligible to receive certification. Authorizes the Secretary to direct that such certification holder carry out its space debris mitigation plan.

Sec. 80109. Existing License or Pending Application for Space Operations

Directs U.S. entities authorized to operate space objects on or before the effective date of this section by a covered license to elect either to be immediately considered certified under the same terms as the existing license or apply for a certification under this chapter and operate under the

existing license until such certification is issued. Directs entities with applications for licenses of space object operations pending as of the date of enactment to either rescind such application without prejudice or transfer the relevant portions of the license application to the Office of Space Commerce as an application for certification.

Sec. 80110. Private Space Activity Advisory Committee

Requires the Secretary to establish a Private Space Activity Advisory Committee. Provides guidelines and qualifications for selecting the 15 members for the Committee. Establishes the duties of the Committee, which are: to analyze nongovernmental space activities; analyze the implementation of the certification process; provide recommendations to the Secretary and Congress on how the U.S. can facilitate and promote a robust and innovative private space sector; identify any challenges the United States private sector is experiencing; review best practices for avoiding harmful contamination in space as well as for avoiding the adverse introduction of extraterrestrial matter on Earth; and review best practices to avoid the creation of persistent space debris. Directs the Committee to submit a report to Congress, the President, and the Secretary annually.

Sec. 80111. Exceptions

Lists and defines operations that do not require a certification under this chapter.

Section 4. Administrative Provisions Related to Certification

Sec. 80201. Administrative Authority

Authorizes the Secretary to seek an order of injunction or similar judicial determination to terminate a certification if the Secretary determines that the certification holder has substantially failed to comply with any provisions of this subtitle or the terms of a certification. Authorizes the Secretary to assign civil penalties for noncompliance with regulations or certification requirements, as well as for operations conducted without a certification. Allows the Secretary to modify such penalties. Authorizes the Secretary to seize objects or conduct investigations related to violations and enforcement of this subtitle. Authorizes certification holders and applicants to request Secretary review of adverse actions, or to seek judicial review of final agency actions. Prohibits the Secretary from imposing fees and costs on certification holders and applicants and restricts the Secretary's authority to impose conditions or requirements on certifications.

Sec. 80202. Consultation

Expresses the sense of Congress regarding the value of government assets in outer space. Directs the Secretary, within 30 days of issuing a certification, to determine whether the certified operations interact with the operations of a Federal Government space object in a manner that presents a substantial risk to the physical safety of either object. If the Secretary determines that such substantial risk exists, authorizes the Secretary to require a certification holder to participate in a consultation with the government that is facilitated by the Secretary. Restricts the Secretary from placing conditions on a certification or issuing regulations based on such consultation.

Sec. 80203. Appeal of Denial or Condition of Certification

Authorizes applicants to appeal a denial or condition of a certification to the Secretary, who shall then affirm or reverse the determination within 60 days. Authorizes applicants to seek judicial review if the appeal to the Secretary is denied.

Sec. 80204. Exclusive Authority for Determination of International Obligations

Prohibits any agency, other than the Secretary, from imposing requirements on a nongovernmental entity's operation of a space object or carrying out of a space debris mitigation plan as described in this subtitle based on U.S. international obligations under the Outer Space Treaty.

Sec. 80205. Limitation on Certain Agency Supervision

States that, one year from the date of enactment, no agency can authorize, place conditions on, or supervise the operation of space objects except as set forth in this subtitle. States that agencies retain the authority to include additional terms, conditions, limitations, or requirements in a contract with a certification holder.

Sec. 80206. Commercial Exploration and Use of Outer Space

Directs the President to interpret and fulfill international obligations with regard to nongovernmental space activities in a manner that minimizes regulations and limitations.

Sec. 80207. Federal Jurisdiction

States that district courts have original jurisdiction over civil actions resulting from the operation of a space object.

Sec. 80208. Global Commons

States that outer space is not a global commons.

Sec. 80209. Regulatory Authority

Requires the Secretary to issue any regulations necessary to carry out this subtitle within ten months of enactment. Directs the Secretary to avoid creating unnecessary regulatory burden for nongovernmental entities to the greatest extent possible.

Sec. 80210. Consultation with Relevant Agencies

Authorizes the Secretary, at the Secretary's discretion, to consult with other agencies as necessary. Clarifies that such consultation authority does not alter the exclusive authority of the Secretary over operations of space objects.

Section 5. Technical and Conforming Amendments

Amends Title 51 U.S.C. to update the table of chapters, repeal language that is replaced by the new text of the bill, and make technical corrections.

Section 6. Office of Space Commerce

Amends Title 51 U.S.C. to make the Director of the Office of Space Commerce a direct report to the Secretary of Commerce.

Section 7. Space Situational Awareness

Sec. 50704. Space Situational Awareness

Authorizes the Director of the Office of Space Commerce to award a cooperative agreement to an eligible entity to establish a consortium to provide civil space situational awareness data, information, and services. Prohibits the Secretary from promulgating regulations for space situational awareness or space traffic management. Defines the entities that are eligible for the cooperative agreement and lists the groups that should be sought for membership and participation in the consortium. Directs the consortium to: provide public space situational awareness data, information, and services; coordinate information sharing agreements between consortium members; seek broad consortium membership, participation, and information sharing; seek to maximize cost sharing and enable the commercialization of private sector products and services; facilitate opportunities for U.S. commercial entities to participate and contribute; and promote voluntary consensus standards and best practices for space situational awareness. Provides immunity to the entity awarded the cooperative agreement from any suit in any court for any cause of action arising from the provision or receipt of space situational awareness data, information, or services pursuant to such cooperative agreement.

Sec. 50705. Authorization of Appropriations

Authorizes appropriations for the Office of Space Commerce in FY24.

Section 8. NASA Space Situational Awareness Institute

Sec. 31501. Orbital Debris Space Situational Awareness

Directs the Administrator, in conjunction with other agency heads, to develop and acquire technologies that reduce the risks associated with orbital debris. Authorizes the Administrator to award a cooperative agreement, for a period of ten years, to an eligible entity to establish a Space Situational Awareness Institute. Directs the Institute to conduct research and development and demonstration projects related to orbital debris and space objects and leverage non-Federal sources of support to improve space situational awareness and minimize risks. Defines the entities that are eligible for a cooperative agreement as well as entities that are eligible for membership. Provides considerations in awarding the cooperative agreement. Lists the authorization of appropriations for the creation of the Institute.

Section 9. Launch and Reentry

Amends the language in Chapter 509 of Title 51 to provide transparency regarding national security and foreign policy considerations in launch licensing. Extends deadlines in chapter 509 related to the existing risk allocation regime and the human spaceflight regulatory learning period. Directs the Secretary of Transportation to conclude consultations within 120 days of receiving an application under chapter 509.

Sec. 50924. Prohibition

Prohibits agencies from restricting the launch or operation of a private sector space object to comply with a treaty obligation that is not self-executing.

Section 10. Report on Registration of Space Objects

Directs the Secretary of Commerce, acting through the Office of Space Commerce, in coordination with the Secretary of State, to submit a report to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the implementation of the space object registration obligations of the United States and other countries under Article VIII of the Outer Space Treaty and the Convention on Registration of Space Objects. Lists the contents that are required for the report.

Section 11. Commercial Space Launch and Reentry Accident Investigations

Provides the findings and sense of Congress regarding commercial space launch and reentry accident investigations.

Section 12. In-Space Servicing, Assembly, and Manufacturing

Provides the sense of Congress regarding both crewed and autonomous in-space servicing, assembly, and manufacturing.

Section 13. Space Nuclear Systems

Provides the sense of Congress regarding space nuclear systems. Directs the Secretary of Transportation to submit a report that includes a proposal for licensing the launch of commercial spacecraft containing space nuclear systems to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate within 180 days of enactment. Directs the Commercial Space Transportation Advisory Committee (COMSTAC) to submit a report to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate within 180 days of the Department of Transportation delivering their report. The COMSTAC report should detail industry and stakeholder perspectives on the Department of Transportation report and proposal.

Section 14. Limitation on International Agreements Concerning Outer Space Activities

Sec. 30705. Limitation on International Agreements Concerning Outer Space Activities

Establishes certification requirements for the President as well as the Administrator of the National Aeronautics and Space Administration, the Secretary of Commerce, and the Secretary of Transportation should the U.S. become a signatory to a non-legally binding international arrangement regarding code of conduct or norms of behavior for space activities. Prevents the U.S. from taking actions that would obligate the U.S. or U.S. nongovernmental entities to restrict private sector activities unless pursuant to the President's constitutional treaty-making powers or further affirmative legislation. Directs the Administrator, Secretary of Commerce, and Secretary of Transportation to provide regular briefings on the negotiation of any non-legally binding

international agreement concerning an international code of conduct or norms of behavior for outer space activities or any similar agreement. Requires agencies that are affected by actions to submit to Congress notice of such action and the effect of such action as well as the potential impact on United States nongovernmental entities.